

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

11-MJ-26

Plaintiff,
vs.

GOVERNMENT'S RESPONSE TO
REQUEST FOR NOTICE PURSUANT
TO FED. R. EVID. 404(b)

ANTONIO RAMONE GUZMAN,

Defendant.

The United States agrees to provide the defendant with notice the Friday before trial of any evidence it intends to offer under Rule 404(b) of the Federal Rules of Evidence. The United States does note that evidence which is probative of a crime with which the defendant is charged and not solely some other uncharged crime is not other bad act evidence subject to the restrictions on admissibility provided in Rule 404(b). *United States v. Kinshaw*, 71 F.3d 268, 270 (8th Cir. 1995); *United States v. McMurray*, 34 F.3d 1405, 1411 (8th Cir. 1994); *United States v. Westbrook*, 896 F.2d 330, 334 (8th Cir. 1990).

Dated and electronically filed this 15th day of July, 2011.

BRENDAN V. JOHNSON
United States Attorney

/s/ JOHN E. HAAK

JOHN E. HAAK
Assistant United States Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
Telephone: (605)330-4400
Facsimile: (605)330-4410
E-Mail: john.haak@usdoj.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of July, 2011, a true and correct copy of the foregoing was served upon the following person(s), by placing the same in the service indicated, addressed as follows:

Timothy J. Langley – via e-filing

/s/ JOHN E. HAAK

JOHN E. HAAK
Assistant United States Attorney